

RATTET, PASTERNAK & GORDON-OLIVER, LLP  
Attorneys for the Debtors  
550 Mamaroneck Avenue  
Harrison, New York 10528  
(914) 381-7400

**HEARING DATE: 2/9/2011**  
**HEARING TIME: 10:00 a.m.**

Robert L. Rattet

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X	
In re:	:
	:
HOTI ENTERPRISES, L.P. and	:
HOTI REALTY MANAGEMENT CO., INC.,	:
	:
Debtors.	:
-----X	

Chapter 11  
Lead Case No. 10-24129 (RDD)

**NOTICE OF MOTION FOR ORDER PERMITTING  
RATTET, PASTERNAK & GORDON OLIVER, LLP  
TO BE RELIEVED AS COUNSEL  
PURSUANT TO LOCAL BANKRUPTCY RULE 2090-1(d)**

**PLEASE TAKE NOTICE**, that upon the annexed application (the "Application") of Rattet, Pasternak & Gordon Oliver, LLP the undersigned will move this Court, before the Honorable Robert D. Drain, United States Bankruptcy Judge, United States Bankruptcy Court, 300 Quarropas Street, White Plains, NY 10601, Room 118 on February 9, 2011 at 10:00 in the forenoon, or as soon thereafter as counsel may be heard, for an Order Permitting Rattet, Pasternak & Gordon Oliver, LLP To Be Relieved As Counsel Pursuant To Local Bankruptcy Rule 2090-1(d).

**PLEASE TAKE FURTHER NOTICE** that only the Court, the U.S. Trustee, the Debtors, the U.S. Trustee and parties filing Notices of Appearance are receiving this notice and the accompanying Application. Any party receiving this Notice via the Court's ECF System or

otherwise and desiring to review the accompanying Application may review same on the Bankruptcy Court's website, [www.nysb.uscourts.gov](http://www.nysb.uscourts.gov), PACER login and password required, or request same in writing by e-mail to [darnold@rattetlaw.com](mailto:darnold@rattetlaw.com), facsimile, or by first class mail.

**PLEASE TAKE FURTHER NOTICE** that any responses or objections to the Motion, must be in writing, shall conform to the Federal Rules of Bankruptcy Procedure and the Local Rules of the Bankruptcy Court, and shall be filed with the Bankruptcy Court electronically in accordance with Administrative Order 473 (which can be found at [www.nyeb.uscourts.gov](http://www.nyeb.uscourts.gov)) by registered users of the Bankruptcy Court's case filing system and, by all other parties in interest, on a 3.5 inch disk, preferably in Portable Document Format (PDF), WordPerfect, or any other Windows-based word processing format (with a hard copy delivered directly to Chambers) and served in accordance with Administrative Order 473, and upon: (a) Rattet, Pasternak & Gordon Oliver, LLP, attorneys for the Debtor, 550 Mamaroneck Avenue, Harrison, New York 10528, attn: Robert L. Rattet, Esq.; (b) Vincent J. Roldan, Esq., Kerry F. Cunningham, Esq., George B. South III, Esq DLA Piper LLP (US), Counsel for GECMC 2007 C-1 Burnett Street, LLC, 1251 Avenue of the Americas, New York, New York 10020-1104; (c) the Office of the United States Trustee, 33 Whitehall Street, 21<sup>st</sup> Floor, New York, NY 10004, Attn: Susan Golden, Esq.; and (d) Hoti Enterprises, LP and Hoti Realty Management Co., Inc., c/o Victor Dedvukaj, 8 Old Woods Drive, Harrison, New York 10528;

and (e) any other parties who have filed requests for notices so as to be received no later than 5:00 p.m. (Eastern Time) seven (7) business days prior to the hearing scheduled herein.

Dated: Harrison, New York  
January 18, 2011

RATTET, PASTERNAK & GORDON OLIVER, LLP  
Attorneys for the Debtors  
550 Mamaroneck Avenue  
Harrison, New York 10528  
(914) 381-7400

*/s/ Robert L. Rattet*  
By: \_\_\_\_\_  
ROBERT L. RATTET

TO: Hoti Enterprises, LP and  
Hoti Realty Management Co., Inc.  
c/o Victor Dedvukaj  
8 Old Woods Drive  
Harrison, New York 10528

Vincent J. Roldan, Esq.  
Kerry F. Cunningham, Esq.  
George B. South III, Esq.  
DLA Piper LLP (US)  
Counsel for GECMC 2007 C-1 Burnett Street, LLC  
1251 Avenue of the Americas  
New York, New York 10020-1104

Susan Golden, Esq.  
Office of the United States Trustee  
33 Whitehall Street, 21<sup>st</sup> Fl.  
New York, NY 10601

Barbara S. Odwak  
c/o David J. Doyaga, Esq.  
26 Court Street, Suite 1002  
Brooklyn, NY 11242

RATTET, PASTERNAK & GORDON-OLIVER, LLP  
Attorneys for the Debtors  
550 Mamaroneck Avenue  
Harrison, New York 10528  
(914) 381-7400

**HEARING DATE: 2/9/2011**  
**HEARING TIME: 10:00 a.m.**

Robert L. Rattet

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
In re: : Chapter 11  
: :  
HOTI ENTERPRISES, L.P. and :  
HOTI REALTY MANAGEMENT CO., INC., : Lead Case No. 10-24129 (RDD)  
: :  
Debtors. :  
-----X

**APPLICATION IN SUPPORT OF  
ORDER SCHEDULING HEARING ON  
MOTION FOR AN ORDER PERMITTING  
RATTET, PASTERNAK & GORDON-OLIVER, LLP  
TO BE RELIEVED AS COUNSEL  
PURSUANT TO LOCAL BANKRUPTCY RULE 2090 (e)**

**TO: THE HONORABLE ROBERT D. DRAIN,  
UNITED STATES BANKRUPTCY JUDGE:**

The application of Rattet Pasternak & Gordon-Oliver, LLP (the "Applicant"), proposed attorneys for the above captioned debtors and debtors-in-possession (the "Debtor"), respectfully represents as follows:

1. This office was retained by the Debtors to file respective voluntary Chapter 11 petitions on their behalf.

2. Accordingly, on October 12, 2010 (the “Filing Date”) Enterprises filed a voluntary petition for relief under chapter 11 of the United States Bankruptcy Code (11 U.S.C. § 101 et seq.) (the “Bankruptcy Code”) with the United States Bankruptcy Court for the Southern District of New York (the “Court”).

3. Hoti Realty Management Co., Inc. (“Management”) also filed with the Court a voluntary petition for relief under chapter 11 of the Bankruptcy Code on the Filing Date (Enterprises and Management will be referred to herein, collectively as “Debtors”).

4. Thereafter the instant proceedings were referred to Your Honor for administration under the Code.

5. Pursuant to 28 U.S.C. Section 1334(d) and the permanent order of reference of the United States District Court for the Southern District of New York issued pursuant to 28 U.S.C. §157, the Bankruptcy Court has exclusive jurisdiction of all of the property, wherever located, of the Debtors as of the commencement of the cases, and of property of the estates, as well as the determination and allowance of claims against the estates.

6. The Debtors have the rights and duties as debtors-in possession pursuant to 11 U.S.C. §§ 1101, 1107(a) and 1108.

7. No Official Committee of Unsecured Creditors has been appointed. No trustee or examiner has been appointed.

8. Enterprises is a closely held limited liability partnership which owns a residential apartment complex located at 2801 Fillmore Avenue, 3001 Avenue R and 2719 Fillmore Avenue

(collectively, known as 1865 Burnett Street) Brooklyn, New York (the “Property”). Enterprises filed its Chapter 11 proceeding as a result of a pending foreclosure action and the appointment of a Receiver of Rents in a pending foreclosure action encaptioned, GECMC 2007-C1 Burnett Street, LLC v. Hoti Enterprises, L.P. currently pending in the Supreme Court of the State of New York, County of Kings, Index No. 5006/09 (the “Foreclosure Proceeding”).

9. Prior to the Filing Date and to the appointment of a Receiver of Rents in the pending Foreclosure Proceeding, Realty was in the business of owning and operating a management company that managed the apartment complex owed by Enterprises. Realty is also the general partner of Enterprises.

10. Rattet Pasternak & Gordon-Oliver, LLP was retained by order of the Bankruptcy Court as attorneys for the Debtors-in-Possession by Order dated December 31, 2010, *nunc pro tunc*, as of the Filing Date or October 12, 2010.

11. Since that time, Applicant has worked diligently and tirelessly to assist the Debtors in their attempts to resolve the Debtors’ issues with GECMC 2007 –C-1 Burnett Street, the Debtor’s mortgagee and largest secured creditor. In this regard Applicant, *inter alia*, defended actions brought by GECMC in the Bankruptcy Court and negotiated a Stipulation for the use of cash collateral with GECMC. In all respects, this office has maximized its efforts to protect the rights of the Debtors and assist in their efforts to reorganize.

12. However, Applicant has not been able to obtain the frank and open disclosure of the Debtors' affairs as is necessary for effective representation.

13. In particular, there have been difficulties in communication concerning, *inter alia*, the Debtors pre-petition books and records and the Debtors the turnover of the Tenant Rent Deposits.

14. Under the terms of the Cash Collateral Order the Debtors were required to turn over prepetition tenant rent deposits in the amount of \$100,000.00 (the "Tenant Rent Deposits")<sup>1</sup>. Said Tenant Rent Deposits have not yet been turned over by the Debtors.

15. Applicant has made numerous attempts to counsel the Debtors with respect to their duties and responsibilities in these proceedings, however, the Debtors and Applicant have been unable to agree on a course of action going forward.

16. Moreover, communications between the Debtor and Applicant have been strained and Applicant has had great difficulty in obtaining clear, complete and concise information it deems necessary to effectively represent the Debtors in this proceeding.

17. Rule 1.16 of the Rules of Professional Conduct, as effective April 1, 2009 states, in relevant part:

(c) Except as stated in paragraph (d), a lawyer may withdraw from representing a client when:

(2) the client persists in a course of action involving the lawyer's services

---

<sup>1</sup> The debtors had previously advised the Court that it was willing to turn these funds over to GECMC as the Debtors had used these funds prior to the Filing Date.

that the lawyer reasonably believes is criminal or fraudulent;

(4) the client insists upon taking action with which the lawyer has a fundamental disagreement;

(6) the client insists upon presenting a claim or defense that is not warranted under existing law and cannot be supported by good faith argument for an extension, modification, or reversal of existing law;

(7) the client fails to cooperate in the representation or otherwise renders the representation unreasonably difficult for the lawyer to carry out employment effectively;

18. While Rattet, Pasternak & Gordon-Oliver, LLP does not believe that it is advisable to state in detail the circumstances giving rise to certain of the above issues, it will do so in camera, if the Court so requests.

19. Notwithstanding, Applicant submits that it is unable to successfully represent debtors who, by their conduct, render it unreasonably difficult to carry out Applicant's employment effectively.

20. Applicant further submits that it cannot effectively represent debtors who continuously fail to accurately disclose facts which are germane to Applicant's effective representation of the debtors and their respective estates.

21. Accordingly, Applicant requests that it be permitted to permissively withdraw as counsel for the Debtors in their Chapter 11 cases, and will of take such steps as are necessary to ensure an orderly transition of the Title 11 cases to new counsel.

22. Applicant is proceeding by Order Scheduling Hearing rather than Notice of



Motion for the reason that relief is required on an emergent basis.

23. Annexed hereto as Exhibit "1" is a copy of a proposed Order Scheduling Hearing on this Motion.

**WHEREFORE**, the Applicant respectfully requests that the Court permit Applicant to permissively withdraw as counsel to the Debtors, together with such other and further relief as is just, proper and equitable under the circumstances.

Dated: Harrison, New York  
January 18, 2011

RATTET PASTERNAK &  
GORDON-OLIVER, LLP  
Attorneys for the Debtors  
550 Mamaroneck Avenue  
Harrison, New York 10528  
(914) 381-7400

By: /s/ Robert L. Rattet  
ROBERT L. RATTET